

NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

DOMESTIC VIOLENCE INVESTIGATION AND VIOLATION HEARING
PREPARATION GUIDELINES

Evaluate the safety of the victim; consider any specific threat, recent acts of domestic violence, past history of domestic violence, and potential for future violence.

Building your case

Even if victim appears cooperative, always prepare your case as though you will have no victim.

1. Contact Victim

- a. If arriving on the scene, document and memorialize:
 - What sounds do you hear upon approaching the scene?
 - What is the condition of the parties when you arrive?
 - Crying
 - Intoxicated
 - Where are they positioned in the room (and which room)?
 - The abuser
 - Victim(s)
 - Children
- b. Get background information of victim(s) and witnesses (confidential):
 - Phone numbers (including home, work, cell)
 - Full address
 - Phone numbers and addresses of close friends and family members
 - Locate and contact the victim/witnesses taking into consideration the location of the offender/batterer
- c. Interview (privately):
 - Victim(s)
 - Children
 - Neighbors/witnesses
 - 911 caller
 - Releasee/defendant

Interview in person (as close in time to the domestic incident as possible) and obtain:

- Description of the offense and past offenses
- Views toward violation/disposition
- Willingness to testify

Request a signed/dated statement concerning the domestic violence incident(s). Obtaining a detailed statement will make it difficult for future minimization or recanting. If necessary, these statements can also be used for impeachment or imposition of domestic violence special conditions.

d. Refer victim to domestic violence services:

- Provide the victim with information regarding the availability of a shelter or other services in the community and a copy (when safe to do so) of [Form 9401D](#), “Legal Rights and Remedies,” available to victims of domestic violence

e. Refer victim to local law enforcement agency:

- This will alert the local Police Department and provide further assistance to the victim(s)
- Local Police Department may have evidentiary resources that we do not
- This will reinforce our case
- This may result in an arrest

f. Be available to the victim(s) throughout the violation process to help address victim concerns, fears, or complaints.

2. Preserve and Obtain Evidence...Corroboration

a. Photographs of the victim’s injuries:

- On scene photos – are critical to document the actual level of violence and injury (e.g., holes in wall, phone jack ripped out)
- Follow up photographs – taken 2-3 days after incident often provide far more powerful evidence, as does the length of time the bruise(s) last

b. Photographs of the defendant: Officers at the scene should be trained to take photographs of a defendant, particularly when they claim self-defense. It is also helpful to capture what the defendant looked like at the time of the incident (rather than at the time of the violation hearing).

c. Obtain necessary medical, emergency medical services, and/or hospital records relating to the case, as well as past and present police reports, Domestic Incident Reports, and Orders of Protection, and ensure that copies are secured in the case folder/record.

d. 911 tapes/printouts should be reviewed on every case.

This accurately captures the victim’s emotional state and provides a microphone into the violent incident and often records statements of a child, witness, or releasee.

The following staff shall have the delegated authority to issue/sign a subpoena duces tecum (Section 8000.6 of General Provisions): A Parole Board Member; Administrative Law Judge; Regional Director; Assistant Regional Director; Parole Revocation Specialist; Preliminary Hearing Officer; Final Hearing Officer; Area Supervisor/Bureau Chief, or designee.

- e. Paramedic run-sheets: These sheets may contain valuable hearsay statements or other material evidence.
 - f. Torn clothing/blood evidence: Such items stand as physical evidence substantiating the extent of the rage exhibited by the accused.
 - g. Damaged furniture: Photographs of damaged apartments, houses, or furniture are a minimum in a thorough investigation. Ideally, broken furniture should be secured as evidence (e.g., broken phone or smashed dishes).
 - h. Weapons: Includes knives, scissors, pieces of wood, or any instrument used as a weapon by the abuser (e.g., lamps, belts, boots, and phones).
 - i. Employee records: May become relevant in evaluating self-defense claim or corroborating a victim's story.
 - j. Telephone records: Phone records may corroborate victim contact and may also establish harassing phone calls if they are documented on a phone bill/record and/or voicemail/text.
 - k. Letter from the defendant: Batterers often communicate with their victims with notes, cards, and letters. These communications may be sent while the abuser is in jail/prison or may occur after they are released. It is critical to obtain any such communications from the victim as soon as possible. This includes electronic correspondence (email).
 - l. Diagrams of the scene/victim: Well drawn diagrams of a house or apartment should be obtained immediately after the incident. If the victim later testifies for the defense, diagrams may be extremely helpful during cross-examination. Diagrams of the victim can be marked on to show bruises, scratches, pain areas, or simply where victim was struck even if bruising has not yet occurred.
 - m. Photographs of the children: Photographs of the children present at the scene put a face to a voice on a 911 tape or the testimony of an Officer to an admissible hearsay statement (excited utterance) from a child. Photographs bring the reality of domestic violence and children to the courtroom.
- 3. Follow-up Interviews with the Victim:** Domestic violence cases require follow-up interviews with the victim just as any other victim oriented case (i.e., rape, kidnap, or sexual assault).
- a. Be available to the victim throughout the violation process to help address victim concerns, fears, or complaints.
 - b. Medical Records: Have the victim sign a medical release. If they are uncooperative, subpoena the records or obtain them pursuant to a search warrant.

- 4. Look for Defendant's Admissions:** Admissions are often made to the responding Police or Parole Officers. However, often defendants will make admissions to their children, parents, siblings, coworkers, or neighbors. Obtain the 911 tape and have it enhanced, when possible, to hear what is going on in the background, including potential statements from the defendant. Lastly, contact jail personnel and read old probation reports and interviews.
- 5. Hearsay Evidence:** Often becomes the most powerful evidence against a batterer in the absence of the victim.
 - a. Excited utterances/spontaneous declarations: Statements by the victim on the 911 tape, at the scene, at the hospital, and to relatives can often be admitted once the proper foundation is laid. Children who have witnessed a domestic violence incident may also make excited utterances which can be admissible even if they are not old enough to be competent to testify.